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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

ARTHUR J. SOWELL,

Defendant and Appellant.

A124151

(San Mateo County Super. Ct.
No. SC063751A)

Defendant Arthur J. Sowell appeals from his conviction of violating Vehicle Code section 10851, subdivision (a) and imposition of a two-year prison sentence. His counsel has filed an opening brief that raises no issues and asks this court for an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant has been advised by counsel that he can file a supplemental brief raising any issue that he wishes to call to the court's attention. He filed a supplemental brief in which he asks us to reconsider his sentence in light of his substance abuse history and difficulty in entering the Project 90 program. Upon independent review of the record, we conclude that no arguable issues are presented for review and affirm the judgment.

Background

After defendant was arrested for driving a stolen car and for possession of methamphetamine and drug paraphernalia, he pleaded no contest to a charge of unlawfully driving or taking an automobile in violation of Vehicle Code section 10851, subdivision (a). As part of his plea bargain, various other charges were dismissed,

including a “strike” allegation, and allegations of seven prior prison terms. The court imposed and suspended execution of a two-year prison sentence. The conditions of supervised probation included abstaining from controlled substances and to seek and maintain substance abuse treatment as directed by probation. He also was ordered to serve 446 days in jail.

A year later, defendant’s probation officer filed an Affidavit of Probation Violation, alleging that defendant had admitted to using methamphetamine on three recent occasions and failed to interview with Project 90, as directed by the probation officer.

At the contested probation revocation hearing, defendant’s probation officer testified that defendant admitted using methamphetamine on three occasions and failed to reinterview with Project 90 to obtain placement in the program.

Defendant explained that he used methamphetamine due to recent family problems and why he missed the appointment with Project 90 in favor of an employment opportunity.

The court listened to the evidence, revoked and terminated probation, and executed the previously imposed two years in prison. The court awarded custody credits.

Discussion

We have reviewed the record. Counsel represented defendant at all stages of the proceedings. Defendant properly executed a change of plea form and waived his rights, pleaded no contest and agreed to the suspended sentence. He violated the conditions of his probation after his probation officer tried to get him to enroll in a drug treatment program. Substantial evidence supports the court’s finding. The court did not abuse its discretion in imposing the state prison sentence. There were no errors in the proceedings or the sentence imposed.

The judgment is affirmed.

Marchiano, P.J.

We concur:

Dondero, J.

Banke, J.